

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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STEVEN A. LASHWAY,

Plaintiff,

v.

BRIAN S. FISHER, et al.,

Defendants.

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DECISION & ORDER

14-CV-6563CJS

The docket in this case reflects that a motion filed by plaintiff, Steven A. Lashway (“Lashway”), to compel defendants to identify several John Doe defendants and to appoint counsel is still pending before the Court. (Docket # 7). Also pending before the Court is Lashway’s motion for appointment of counsel and return of “lawsuit papers.” (Docket # 41). For the reasons stated below, these motions are denied as moot.

In response to previous orders issued by United States District Judge Frank P. Geraci, Jr., pursuant to *Valentin v. Dinkins*, 121 F.3d 72 (2d Cir. 1997) (Docket ## 4, 6), counsel for defendants sent a letter dated November 7, 2014 to the Pro Se Law Clerk indicating that she was unable to identify John Does 1-5, 11, 13-18. In the same letter, counsel for defendants identified John Doe 12 and requested an extension of time to identify John Does 6-10. In subsequent letters to the Pro Se Clerk, dated November 28, 2014, and to Judge Geraci, dated December 5, 2014, counsel for defendants identified John Does 6-10.

Judge Siragusa issued a Decision and Order dated December 5, 2014, which discussed counsel’s November 28 letter, but not her December 5 letter, and directed the Clerk of

the Court to amend the caption to reflect the names of John Does 6-10 and to issue summonses and to ensure service by the United States Marshal upon them. (Docket # 9). As to the remaining John Does, he directed counsel for defendants to review Lashway's motion "to see if the additional information provided by plaintiff allows [counsel] to identify the full names and addresses of the additional John Doe defendants" and "to produce the above requested information by December 19, 2014." (*Id.*). The docket shows that counsel for defendants responded to the court's directive on December 19, 2014.

Judge Siragusa's December 5, 2014 decision also denied without prejudice Lashway's motion for appointment of counsel. (*Id.*). Earlier this year, I granted a subsequent motion filed by Lashway for appointment of counsel. (Docket ## 40, 46). Of course, counsel is free to explore the identity of any remaining John Doe defendants through discovery.

On this record, Lashway's motion seeking to compel the defendants to identify the remaining John Doe defendants and for appointment of counsel (**Docket # 7**) is **DENIED as moot**. So, too, is Lashway's more recently filed motion for appointment of counsel and return of "lawsuit papers." (**Docket # 41**). The date of that motion suggests that Lashway prepared it before he received this Court's Order appointing counsel. Defendants' response represents that Lashway may review his papers "upon request." (Docket # 43). If Lashway believes that procedure to be inadequate, he should address it with counsel and file any appropriate motions through counsel.

**IT IS SO ORDERED.**

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*s/Marian W. Payson*  
MARIAN W. PAYSON  
United States Magistrate Judge

Dated: Rochester, New York  
September 14, 2015